

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	Case No. 3:95CR00066
v.)	
)	OPINION AND ORDER
JONATHAN HERNDON,)	
)	By: James P. Jones
Defendant.)	Chief United States District Judge

On April 16, 1997, the court sentenced the defendant in connection with a crack cocaine conviction. In so doing, the court considered the federal sentencing guidelines as required under 18 U.S.C. § 3553(a).

Pursuant to its statutory authority, the United States Sentencing Commission has amended the federal advisory sentencing guidelines applicable to criminal cases involving cocaine base or crack cocaine, effective November 1, 2007. On December 11, 2007, the Sentencing Commission further decided that, effective March 3, 2008, the amended guideline provisions will apply retroactively to offenders who were sentenced under prior versions of the sentencing guidelines, and who are still incarcerated. Stated generally, the practical effect of the Sentencing Commission's actions is that certain federal defendants convicted of offenses involving crack cocaine may be eligible for a reduction in their current sentences, pursuant to the provisions of 18 U.S.C. § 3582(c)(2).

On March 4, 2008, the court received a Motion to Reduce Sentence pursuant to § 3582(c)(2) from the defendant.

Having considered the defendant's Motion to Reduce Sentence, the court concludes that the motion must be denied. The defendant plead guilty to conspiracy to distribute cocaine base, in violation of 21 U.S.C. § 846. In accord with the plea agreement, the defendant accepted responsibility at least 50, but less than 150, grams of cocaine base. Congress has mandated that offenses involving at least 50 grams of crack cocaine be punished by a minimum of 10 years. 21 U.S.C. § 841(b)(1)(A)(iii). At his original sentencing, the court sentenced the defendant to 120 months, the statutory mandatory minimum. Consequently, this court is without authority to reduce the defendant's sentence.

Accordingly, it is **ORDERED** that the defendant's Motion to Reduce Sentence (Doc. No. 503) is **DENIED**.

The Clerk will send copies of this order to the defendant at his place of confinement and to the United States Attorney's Office.

ENTER: March 13, 2008

/s/ JAMES P. JONES
Chief United States District Judge